

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 16 CR 793
v.	)	
	)	Honorable Andrea Wood
MICHAEL PERSAUD	)	

**JOINT MOTION FOR EXTENSION OF BRIEFING ON  
MOTION TO DISMISS AND FOR CONTINUANCE OF TRIAL**

The UNITED STATES OF AMERICA, by its attorney, JOHN R. LAUSCH, JR., United States Attorney for the Northern District of Illinois, and MICHAEL PERSAUD, jointly move for the following extensions to (1) a briefing schedule on defendant Michael Persaud's Motion to Dismiss Indictment; and (2) the trial date. In support of this motion, the parties state as follows:

1. The Parties Request an Extended Briefing Schedule  
on Defendant's Motion to Dismiss.

On December 8, 2016, the grand jury returned an indictment against defendant for ten counts of wire fraud, arising out of his misuse of network services of nine victims to send spam emails contrary to, among other things, the terms of his agreement with each of the victims. Docket #2. On February 24, 2021, defendant filed his second motion to dismiss the indictment. Docket #101. On February 25, 2021, the Court entered an order making the government's response due on April 30, 2021. Docket #102.

This case involves complex claims of computer fraud. The motion to dismiss raises an evolving area of fraud, based on a recent Supreme Court case, *United States*

*v. Kelly*, 140 S. Ct. 1565 (2020). The undersigned filed an attorney designation on March 18, 2021. Docket #105. At that time, another attorney had been lead counsel for some time, was familiar with the case, and planned to address defendant's motion to dismiss. However, on April 5, 2021, lead counsel for the government left the Office of the United States Attorney on April 5, 2021. As of then, the undersigned became solely responsible for this case, including responding to the motion to dismiss. The undersigned has not had sufficient time to evaluate, research and respond to the motion to dismiss. The undersigned requests an additional thirty days to file the government's response to defendant's motion to dismiss, to May 30, 2021. Defense counsel has no objection to this request, and further requests thirty days to reply, until June 30, 2021.

2. The Parties Request a New Trial Date.

On December 10, 2020, the Court set this matter for trial for July 6, 2021. Docket #93. At that time, the Court recognized that the conditions of the pandemic could require a continuance. The parties now request a continuance of the trial to the first available date after October 1, 2021, for several reasons, including that the multiple witnesses who have to travel here for the trial are not in a position to be here the week of July 6, 2021, due to continuing COVID-19 conditions. Right now, the cases and hospitalizations are on the rise in Illinois, and until the cases are down in a sustained manner, the witnesses cannot be expected to fly here and stay in a hotel.

In addition, defense counsel and his wife are expecting the birth of his first child on June 29, 2021, which means that he cannot prepare and be available for the July 6, 2021 trial date. The agent on this case is getting married later in the summer

and cannot prepare and be available for trial. Given concerns over COVID measures, and a variety of other commitments, the parties request a trial date of the first available after October 1, 2021, and that time be excluded through the new trial date in the interest of justice and to allow adequate time for trial preparation and witness availability.

WHEREFORE, the parties jointly request that this Court enter an order: (1) setting a briefing schedule for defendant's motion to dismiss that schedules the government's response due by May 30, 2021 and the defendant's reply due by June 30, 2021; and (2) continuing the trial until the first date available after October 1, 2021, with time excluded through that date.

Respectfully submitted,

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